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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION

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In the Matter of)

Advanced Television Systems)
and Their Impact Upon the Existing)
Television Broadcast Service)

MM Docket No. 87-268

**COMMENTS OF
CHRISTIAN COMMUNICATIONS OF CHICAGOLAND, INC.**

Christian Communications of Chicagoland, Inc., licensee of television station WCFC(TV), Chicago, Illinois ("WCFC"), hereby submits its comments in response to the Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry released on August 9, 1995 in this proceeding.

I. DEFINITION OF SERVICE

1. In the Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry, the Commission addresses a number of issues raised or reopened by the advances in ATV technology which have occurred since this proceeding began and which may impact on its previous decisions. One of the advances that the Commission has noted is the ability of ATV technology to provide on one 6 MHz channel not only HDTV format programming, but an alternative service, multiple streams of Standard Definition Television programming. The Commission has asked for comment regarding whether and to what extent it should allow the use of ATV technology to provide services other than HDTV programming.

2. WCFC submits that as ATV technology becomes available, and

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individual broadcasters see a need within their communities that could be met with an additional program stream, the use of a station's SDTV capabilities should be permitted. The public interest benefits of the multiple program stream approach could be immense. A station in close proximity to a time zone line could program one of its program services on one schedule for the earlier time zone and another of its program services, broadcasting the same material, on a schedule designed for the later zone. Similarly, broadcasters in larger markets could provide one program service designed to address the needs of city dwellers and another to address the needs of suburban or rural residents. In other markets, the demand for programming targeted to specific cultural populations may lead broadcasters to provide separate program services for each group. Broadcasters should be allowed to harness this increased potential for public service so as to best address the needs of the viewers in their specific markets.

II. ELIGIBILITY

3. The Commission has sought comment as to whether any of these technological advances should alter its previous determination that initial eligibility for ATV channels should be limited to existing broadcasters. The Commission has stated that it also seeks to assure that new entrants are not excluded from participating in the new digital era. Inasmuch as there will be limited spectrum available for both these groups, the Commission has inquired as to what treatment should be given to broadcasters who are off-the-air, in bankruptcy, or who are otherwise non-operational and whether spectrum which would otherwise be made

available to those stations should be made available to new entrants instead.

4. WCFC submits that all broadcasters who are currently on the air, fulfilling their public interest obligations to their communities of license, should have the first right to apply for and be granted an uncontested ATV license. These broadcasters constitute a pool both knowledgeable and skilled in serving the tastes and needs of their local communities. Tapping this resource provides the greatest hope for the expeditious implementation of ATV service.

5. Those whose stations are currently off-the-air, who are in bankruptcy or who are in various states of license application should not be entitled to such an uncontested ATV license. These individuals or entities do not provide the Commission with the resources of finances, experience and personnel that the Commission must be able to rely upon to implement this new service. The channels these stations would otherwise occupy should be made available to newcomers for use as broadcast facilities. Similarly, where existing broadcasters decline an ATV channel, that channel should be made available to new entrants. A determining factor in choosing among applicants for the available channels could be their respective financial ability to construct the proposed facility. Applicants would be required to make a financial showing at the time of application demonstrating their proposed facility's financial viability and presenting their plan to achieve full market service. Expanding eligibility for these channels would provide a stimulus to the transition process, ultimately achieving the Commission's goal of an all-digital service more quickly.

III. PUBLIC INTEREST OBLIGATIONS

6. The Commission has sought comments which will assist it in articulating the broadcasters' public interest obligations in the digital age, particularly the obligations which should apply where the broadcaster provides multiple program services via one channel. WCFC submits that, once the conversion to ATV is complete, each existing (operating) licensee should hold only a single license for its ATV channel even if that channel is used to provide multiple streams of programming. Issuing multiple licenses to a single transmitter to regulate the potential multiple services it could provide would be difficult to manage. Once it is accepted that the licensee has only one license, it is clear that it should have one public service and broadcast compliance obligation. That is, the broadcaster's current public service obligation should remain unchanged.^{1/}

7. However, while the public service obligation would not be increased by the ability to transmit additional services, the broadcasters' flexibility in determining how to meet this public service obligation would. For example, the broadcaster would be able to fulfill its public service obligations by sharing them among the various program services it will be able to provide. During the transition period, however, each broadcaster's should provide public service programming in both its

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An exception would exist where the licensee presents multiple SDTV program options in different languages. Since the news and public affairs or children's programming presented in one language would not fulfil the needs of speakers of another language unable to understand those programs, licensees will have to present this programming in both languages to truly meet their public service obligations.

NTSC mode and its ATV mode so that everyone, regardless of which technology they are utilizing, can receive this programming. To fulfill this obligation, the broadcaster need only broadcast the same programming in both modes. If the broadcaster so chose, however, there should be no regulatory impediment to the broadcaster providing entirely different public service programming for broadcast in the ATV format.

8. Attaching only one public interest obligation to each 6 MHz band, regardless of how many program streams it is used to broadcast, would allow broadcasters to explore the expanded public service opportunities available through this new technology without causing them to become mired in duplicative and complex regulatory burdens. Broadcasters would simply report their public service compliance through existing mechanisms such as Quarterly Issues/Programs Lists, annual children's programming descriptions and quarterly children's commercial limits compliance documentation. Similarly, complaints of non-compliance with commission regulations would be addressed under the Commission's existing complaint and investigation procedures and remedied through the Commission's existing enforcement mechanisms including fines and license revocation.

Broadcasters' familiarity with these existing mechanisms will allow the continued self-regulation of the industry. Thus, while the broadcast industry will have the potential to increase its service to the public, it will not come at the expense of an increase in the regulatory burden on the licensee or the Commission's staff.

9. Defining the public service obligation in this manner will also allow

broadcasters to use a portion of the allotted spectrum for other information sources which are not typically associated with traditional television programming. The services would likely only develop on a need-to-have basis as pay-per-view did in the cable industry. The income generated from these program sources, however, could provide some of the much needed funds to offset the tremendous cost of converting a broadcast facility from analog to digital.

10. Finally, it is noted that, while a station's quantitative public interest obligations are to be applied in a per-channel basis, all matter broadcast for reception by the general public must still comply with the FCC's content-related rules and policies, such as its indecency, obscenity and personal attack rules. To the extent that material is broadcast in a form not readily accessible by the general public, for example where a signal is broadcast in a scrambled mode, content policies consonant with those in effect for cable operators should be employed. The American public is very television-literate and will know where to look for the programming which meets their tastes and interests.

IV. TRANSITION

1. Simulcast Requirement

11. The Commission has proposed that broadcasters be required to simulcast all of their NTSC programming over at least one of their available ATV program streams. WCFC submits, however, that a mandatory simulcast requirement is not necessary, and may be counterproductive, to the Commission's goal of achieving conversion by a date certain because consumers will not have the

necessary incentive to purchase improved television sets. The ability to present multiple services has the potential to greatly increase the competition between broadcast stations. Consumer demand for the improved services will accelerate the purchase of television sets capable of receiving the improved service. The combination will bring the transition to some natural equilibrium in a more market-driven state than a government-mandated simulcast requirement will. Past experience has demonstrated that such market-driven consumer conversions as those from black and white to color and from mono to stereo television proceed smoothly without government mandates.

2. Recovery of Spectrum

12. The Commission has also noted that the new ATV technology will allow more efficient use of the spectrum allotted to television broadcasting, thus increasing the amount of spectrum the Commission may ultimately be able to reclaim at the end of the conversion. As a result, the Commission has asked for comment on how it can proceed with this "recovery" of spectrum.

13. WCFC notes that it is obvious that the faster the conversion is effectuated, the faster this recovery of the spectrum can begin. To this end, WCFC suggests that as soon as the new standard is determined, all new television sets should be required to be ATV compatible and to contain the necessary circuits to convert NTSC to ATV. Past experience suggests that broadcasters will offer advancements to viewers at a rate that equals or exceeds the demand. This is partly driven by the natural competition that exists between local stations to attract new

viewers and partly by the broadcaster's desire to be the "first" in the market with new technology. This natural competition will create a flow to the areas of SDTV and HDTV at a rate affordable to almost everyone.

14. It is those who are unable to afford to convert that present an important question for the Commission, one which is even more important, and which must be addressed before, the question of spectrum recovery. It must be remembered that it took several decades for the cable industry to reach the 66% penetration mark. Would the Commission have considered at that point "recovering" the broadcast spectrum merely because a majority of viewers were able to receive their programming over cable? Clearly the answer is no. Several years from now, when 80% of the population can receive ATV signals, will the Commission then find it acceptable to deny the remaining 20% access to news, information, and public information programs?

15. It is thus impossible to address the question of spectrum recovery without remembering Commissioner Quello's comments concerning the "haves" and the "have-nots." It is a fact that those who can afford a new television will be early participants in this new technology. Requiring the immediate production of ATV compatible, NTSC to ATV converting television sets will further assure this comes to pass. It is the financially restrained who will be the last to convert to this new technology. The question remains, then, "At what point is it appropriate to turn off the primary source of news, education, public service, information and recreational programs to those who cannot afford the basic needs of Life?" The ideal answer is,

"Not until the last American has access to this new technology."

16. The ideal is probably not attainable, but there are practical mechanisms which would facilitate the provision of this new technology to every last American. It would be possible to provide converter boxes to all those below a certain income level who still own standard NTSC televisions. These converter boxes would be federally funded using a portion of the spectrum fees and new taxes proposed to be imposed on the revenues generated by broadcasters' use of the ATV channel for subscription or information not typically associated with traditional television programming. The converter box project would be phased in over time, starting with areas where spectrum is most desired. As each area is converted, that area's NTSC spectrum could be recovered providing funds to continue the converter project. This process would be similar to the current staggered licensing process. At the end of the converter box project, funds received from the recovery of spectrum, which recovery was made possible by the converter box project, would be used to reduce the federal deficit as is the desire of the Congress.

17. ATV conversion will cost everyone. Considering the total cost to consumers, cable companies, broadcasters, and others, federal dollars invested in helping the very poor could speed the conversion process along. This would allow for earlier collection of revenue from spectrum auctions, which should more than offset the investment.

3. Length of Application/Construction Period

18. The Commission has proposed to limit the time period during which

broadcasters must apply for and construct their ATV stations or risk having their ATV channels assigned to others. While WCFC agrees that a line must be drawn at some point, WCFC believes that, despite the best intentions of the Commission and the broadcast industry, there will be many practical impediments to the date certain application and construction approach. For example, one of the most difficult aspects of construction of the new ATV stations will be locating a second transmitter and antenna site. In most communities, the current transmitter site is the prime site available for a transmitter, which is precisely why the broadcaster chose that site for its transmitter in the first place. Selecting a second site necessarily means selecting a less desirable site. An issue that will arise on the date certain when the conversion to ATV is to be complete is whether ATV licensees are now to move their ATV facilities to the prime transmitter sites their NTSC operations previously occupied.

19. For many broadcasters in populated areas, the problem may be even greater. The current site, whether it is considered a prime one or not, may be the only site that is available. The John Hancock building in Chicago is one example of the complexities facing engineers of co-located transmitter sites throughout the United States. These engineers will now have to secure second transmitter sites, which is increasingly difficult in view of increased local zoning regulation of such sites, and ensure that all frequencies at co-located sites are mutually compatible. In fact, conditions such as these may, in some markets, make it impractical to simulcast from two locations. In any event, simulcasting from two locations will present a

tremendous cost to broadcasters in human and financial resources. The more compact the time line for conversion, the more severe the impact.

20. Moreover, the mechanics of any transmitter location will also affect the quality of the signal received by viewers and will raise a new set of interference problems to be resolved as well as a new set of "must carry" signal strength, distance from the transmitter, and second channel carriage issues. Resolving these problems may delay ATV service to the public beyond a date certain established by the Commission.

21. In addition to site-related delays, there will inevitably be delays from equipment suppliers because of the high peak demand for the new ATV equipment. These delays again would be beyond the control of broadcasters or the Commission and could impact the Commission's date certain approach. The Commission must, therefore, recognize that any time-line for implementation must operate more as a guideline subject to revision for reasons such as those described above.

22. Once it recognized that the conversion process may well fail to meet the Commission's date certain goals, through no fault of the broadcast industry or the Commission, the Commission should examine other means of getting the new improved ATV signals to the public in the interim. WCFC notes that the integration of cable operators into the conversion process can help achieve this interim service. Specifically, the Commission should require cable operators within stations' current "must-carry" areas to carry the ATV programming of each ATV permittee, even prior to the actual construction of the ATV facility. This programming could be delivered

to the cable systems via fiber optic cable to a mutually agreeable distribution point. This would allow the public to get the benefit of an ATV service while the ATV permittee addresses the issues of ATV transmitter site location, equipment supply and construction funding. In addition, it preserves natural resources by not requiring ATV permittees to expend the energy necessary to operate the ATV transmitters.

23. It is assumed that along with the Commission's currently-mandated simulcast requirement would come the requirement that cable companies carry both the ATV and the NTSC broadcasts. Otherwise, stations will be reluctant to convert to ATV broadcasts when those who receive them via cable cannot receive their ATV programming. The instant proposal, then, simply advances the date upon which ATV programming becomes available via cable. Ultimately, at a pre-determined date, the broadcasters would relinquish the NTSC broadcast channel, and its corresponding cable carriage, and place the new ATV transmission on the air. Cable operators would then be able to receive the ATV signals either over the air or via the fiber optic cable. While the date certain on which NTSC operations end may be delayed for the reasons outlined above, the provision of service to the public would not be affected because the service would be available via cable.

4. Small Markets

24. The integration of cable into the conversion process would help address many of the practical problems that the conversion will cause. First, for small stations, the involvement of cable will assist in making the conversion to digital financially viable. Small broadcasters in large markets will have very limited funds

and will therefore find it more difficult to make the transition. This is particularly true if some type of gross income guidelines, rather than pure market size, is not taken into account. It cannot simply be assumed that all stations in a certain large market have more expendable income than stations in a certain small market. Even with such factors taken into consideration, however, small stations will still be faced with disproportionate income/expense ratios because they are going to be faced with the same costs without the greater income of the larger stations. Retaining their must-carry status, on both their ATV and NTSC channels, will therefore be vital to these stations and ultimately to the expeditious transition of all stations.

5. All-Channel Receiver Issues

25. WCFC believes that all receivers should be required to be able to receive all three formats, NTSC, SDTV and HDTV. Development and production of such receivers, however, will take time. Here again, the use of the cable system will speed the conversion process. Since some people would be able to receive ATV via cable and others via the converter box method, the equipment demands made on manufacturers will be spread out over more time. Accordingly, delays in equipment manufacture will not delay service to the public.

Conclusion

If the Commission were to implement all of WCFC's suggestions for the transition from analog to digital, it would have in place the following requirements:

That all new receivers be ATV compatible and able to convert NTSC signals to ATV;

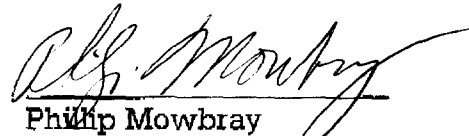
That all NTSC signals be broadcast free over-the-air;

That ATV signals be distributed to the public as soon as they are available via a dedicated cable television channel; and

That NTSC to ATV converters be provided to the economically disadvantaged so that they may participate in the digital revolution.

Under this scenario, broadcast television would be available to everyone in some form at all times during the conversion process and the public, via the marketplace, rather than the government, will answer the question, "Does the viewing public really want HDTV?"

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Philip Mowbray", written over a horizontal line.

Philip Mowbray
Director of Operations
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November 14, 1995